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CITY OF OAKLAND

AGENDA REPORT

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TO: Office of the City Administrator
ATTN: Dan Lindheim
FROM: Department of Human Resources Management
DATE: February 9, 2010

RE: **Follow-up and Possible Action on the City Auditor's Hiring Practices Performance Audit Report, Including Information On 1) The Use of Temporary Contract Service Employees, 2) Police and Fire Recruitment Processes, 3) Desk Audits, and 4) The Recruitment Process for Exempt Positions**

SUMMARY

At the December 10, 2009 meeting of the Rules Committee, presentation was made by Sjoberg Evanshenk Consulting Inc., who conducted for the City Auditor the Oakland Hiring Practices Performance Audit. Staff at the same meeting, presented brief comments regarding the audit. The Rules Committee directed staff to present any detailed follow up reports to the Finance Committee.

Staff was directed to address four areas: 1) The use of temporary contract service employees (TCSE); 2) The use of community representatives in the Police and Fire Departments recruitment processes, including but not limited to screening, selection, and final hiring processes to increase Oakland residents, minorities, and women among sworn personnel; 3) The use of desk audits and the criteria for assigning out of class work; 4) Policies regarding recruitment for exempt positions in order to create more transparency, and ensure that incumbents meet minimum qualifications.

FISCAL IMPACT

Based upon the results of the technology assessment which will be completed mid to late February, there may be additional costs which will be provided to the Committee in a follow up report.

DISCUSSION

Prior to the Special Rules Committee meeting, the Administration was asked to identify the top five audit findings and recommendations that the Administration was in agreement with, and the top five that we were not in agreement with. The December 7, 2009 letter to the Chair of the Finance and Management Committee identified the following audit findings and recommendations where there is agreement, and areas where there is disagreement.

Item: _____
Finance and Management Committee
February 9, 2010

A. Areas of Agreements with the Audit

- Having a strong Personnel Department with a clearly defined role is important: Recent establishment of the Department of Human Resources Management was intended to provide more independent oversight of the City's human resources, and was part of an overall strategy to address issues prior to the conduct of the audit.
- Having clearly defined hiring rules and a centralized hiring process driven by the Department of Personnel is essential: The review and update of Administrative Instruction (AI) 562, started months before the Hiring Practices Audit was completed, is intended to clarify rules for staff hiring and promotions, and to strengthen the roles of the Human Resources Management Department. Following the issuance of the AI citywide training of key department staff will be conducted.
- Compliance with applicable laws such as the Equal Access Ordinance is important. We have been working with the City Attorney's Office to resolve the Equal Access Ordinance litigation. The Department of Human Resources Management and the Equal Access Office continue to be involved with the operating departments, with advice and consultation from the City Attorney's Office, in implementing both the letter and spirit of the Ordinance.
- It is important to have a strong and implementable Nepotism Ordinance: Once the litigation surrounding the Anti-Nepotism Ordinance is resolved, we will renew our efforts to implement the Ordinance. We believe it is important to sustain a work environment that values fairness in hiring on the basis of merit and fitness to do the job. We will be issuing a City Wide Code of Conduct, and providing training on ethics for managers and staff.
- Effective monitoring and review of employees who work out of class, and more oversight of exempt, temporary, and part time employee's appointments (ELDE and TCSE) is occurring. This occurred prior to the release of the audit in preparation for layoffs, and continues. Currently, the Employee Relations Division within the Department of Human Resources Management is working with the appropriate unions to address some of the issues raised in the report.
- Efforts to ensure that all non-Civil Service classifications are formally exempted are under way: The Department of Human Resources Management is working on a strategy to update the City's classification plan. A formal process was adopted as part of the contract with Local 21 to resolve questions regarding exemptions for some classifications, and is proceeding. Recently, City Council approved several classifications that had been pending for over a year. Updating the City's classification plan to be in compliance with applicable ordinances, policies, and memorandum of understanding provisions is a priority for the Department of Human Resources. It is estimated with the current staff it will take 12-18 months if there are not major changes in priorities.
- Automation of personnel processes is essential: The Report recommends further automation of the human resources function. The Department of Human Resources Management is working with the Department of Information Technology which is conducting a technology assessment

of the Department. The assessment will provide an opportunity to determine how work processes can be streamlined, and where technology can improve operational effectiveness. The assessment should be completed by mid to late February. The final assessment will include our estimate of the cost to implement some of the technological solutions.

B. Areas of Disagreement with the Audit

- Management does not agree with the recommendation to eliminate Payroll's responsibility for entering personnel information in the Oracle HRMS database. We contend that Payroll and Personnel (now Department of Human Resources Management) are fully segregated. Further, we do not agree that the Department of Information Technology should be the final authorization to assign access to the City's system. Payroll has fiduciary responsibility to safeguard payroll data, and is accountable for the accuracy and validity of the data. Finally, we do not agree with the recommendation to eliminate Personnel and Payroll "super user" status in Oracle. Super user access is already limited to a few individuals who require access to perform critical systems analysis, enhancements, maintenance, and trouble shooting.
- We do not agree that the Director of Human Resources Management should be notified before employees are assigned "out of class" work. We propose that operating departments notify the Director if the out of class work will continue beyond thirty (30) days. Given the severe budget reductions, departments need maximum flexibility in how staff is assigned temporarily in order to perform the work. The Department of Human Resources Management will work with the operating departments to ensure compliance with applicable policies, rules, and memorandum of understanding provisions.
- Requiring prior approval of "out of class" work assignments by the Director of Human Resources is problematic for the following reasons. Given the significant reductions in staffing that most departments are dealing with, flexibility to temporarily assign work may be necessary to maintain daily operations. Additionally, the Department of Human Resources does not have the staffing to monitor these assignments, and a better use of the resources would be to utilize resources to provide ongoing maintenance of the classification plan. The revised Administrative Instruction does require approval of all "Acting or Higher Class Pay" work assignments. As part of the maintenance of the classification plan, appointing authorities will be requested to advise the Department of Human Resources Management of "out of class" work assignments beyond thirty (30) days.
- Given the resource constraints and in the absence of additional technological capability within the Department of Human Resources, we do not think it is practical at this time to "Implement an independent and regular review process (i.e. monthly) to analyze recent hiring activity (include all types: exempt, classified, part time, temporary, sworn, etc.) by tracing through the entire hiring process, from the initial personnel requisition to the employee being entered into the system..." The Department of Human Resources Management staffing was reduced by 25%, and in the Division that would perform this function, the reduction was over 33%. If matters are brought to our attention by the unions or employees, they should be investigated

immediately. Further, the Department of Human Resources Management is working with the departments in an advisory and consultative role, and providing ongoing training, should eliminate any major deviations from the system. Joint training by the Department of Human Resources Management and Payroll will facilitate compliance by the departments with the applicable policies.

- While we may be in general agreement with regard to the recommendations that pertain to the Police Department, we feel the new Chief should have adequate time to assess the Department, and determine what should be done with regard to the recommendations. Based upon his vision and experience, he will be in the best position to take action in order to meet the goals of the Mayor, City Council, and the Administration as it relates to policing and the recommendations in the report.
- We do not agree that the Fire Department should be excluded in the distribution or acceptance of applicants. The Department of Human Resources Management is responsible for the acceptance and processing of applications, but works with both the Police and Fire Departments in all phases of the recruitment and hiring process. A Best Practices Survey will be provided to the Committee in the next report.

We believe our responses contained in the December 7, 2009 letter are relevant in providing a background and context when responding to the specific questions that staff was asked to comment on.

C. Audit Implementation Strategy

Overall, the Hiring Practices Audit identified seven (7) different chapters of issues and concerns surrounding the City's outreach, recruitment, selection, monitoring, oversight, temporary placements and other areas within the City's policies and procedures on human resources management that need improvement. Within each chapter the Department of Human Resources Management (DHRM) was able to develop a strategy for implementation of those recommendations for which there is agreement that would improve the hiring processes for the City of Oakland.

Approximately one quarter of all the recommendations contained in the Audit Report will be addressed through a recently revised and soon to be issued Administrative Instruction 562 that specifically outlines the oversight and accountability of the City's hiring process of non-sworn and temporary personnel. The Personnel Department and Payroll Division will be conducting a citywide training on the processes described in the Administrative Instruction to ensure all citywide personnel responsible for professional level HR work are fully educated and informed of the updated policy and procedure.

D. Responses to specific questions from the December 10, 2009 Special Rules Committee and recommendations on addressing key concerns.

1. The use of temporary contract service employees (TCSE): under what circumstances are TCSE's utilized, what criteria are used for utilizing TCSE's, how many are grant funded, and how will Exempt Limited Duration Employees (ELDE) be addressed?

Under the Civil Service Rules and applicable Memorandum of Understanding (MOU) Provisions, TCSE's are allowed to work up to 960 hours or one year on a non reoccurring basis. Exempt Limited Duration Employees (ELDE's) are appointed to meet the City's need to fill a position with: 1) limited funding cycles; 2) a special project that is longer than 6 months , yet still short term; or 3) a position where the duties and responsibilities have not been fully defined. The appointments should not exceed one year.

The audit mentions 500 TCSE's and staff believes that this is a cumulative figure over the last 5 years. The most recent numbers are 127 for TCSE's and 21 for ELDE's. Staff will be working with the Unions to propose to the City Council amendments to the Civil Service Board Rules, and the establishment of additional classifications, and taking other measures to address the issues and problems.

2. Please explain the use of community representatives in the Police and Fire Departments recruitment processes, and also in the screening, selection, and final hiring processes to increase Oakland residents and minority and women among sworn personnel?

i. Police

A community representative is always present at the oral board interviews during the police recruit selection process. Each oral board/panel includes an OPD Sergeant, OPD Police Officer and Oakland resident/community member. The criteria for selecting a community member to participate in the oral panel include one of the criteria listed below:

- Individual must be of an Oakland Resident
- Individual works in the City of Oakland
- Individual must be a business owner in the City of Oakland

Also taken into consideration is the make up of the panel when there are multiple boards within an examination. Gender, ethnicity & experience within the OPD are taken into account to ensure diversity.

The recent outreach campaign to solicit community members to participate in the police recruit hiring process was very extensive. It included creation of a brochure that was circulated throughout churches, community gatherings, and job fairs within Oakland, and included Council

member's newsletters, and word of mouth referral from City employees.

With regard to the recruitment of women and minority applicants, the following activities were conducted:

- Established close relationships with the Asian, Hispanic and Black Officer's Associations to attract experienced minority officers and candidates, and established an informal mentorship program.
- Developed a specific Women in Police workshop conducted on a monthly basis for potential female applicants that were either going through the OPD Police Recruit Hiring Process or interested in a law enforcement career.
- Attended women's colleges and seminars to increase awareness of law enforcement opportunities.
- Developed a specific Practice Physical Ability Test and Police Workshops in Oakland that were held on a monthly basis for all applicants. These workshops were offered on a voluntary basis to any individual who was interested in a law enforcement career, or an applicant in the OPD selection process. OPD staff also were involved in making presentations at high schools.

ii. Fire

A community member assists in the evaluation process and is present at the oral board interviews for Firefighter. Each oral board/panel makeup consists of: Lieutenant or Captain, Firefighter (around 3 yrs of experience) and Oakland Resident/Community Member. The criteria for selecting a community member to participate in the oral panel for the OFD are the same as the Police Department.

- Individual must be an Oakland Resident
- Individual works in the City of Oakland
- Individual must be a business owner in the City of Oakland

When announcing the position of Firefighter Trainee, staff contacted over three hundred community based organizations as well as placed advertisements in the Post, El Mundo and Asian Weekly papers in order to target applicants. In an effort to reach out to the community, a letter was sent to three hundred community based organizations and an informational session on a career in the fire services was held at Merritt College. Bi-lingual Firefighters attended the Merritt College event and were prepared to meet with individuals who attended to answer questions and provide information on becoming a firefighter in the City of Oakland.

3. **Desk audits. What are the criteria for assigning out of class work? What controls are in place to monitor out of class assignments? What is the Department of Human Resources Management's role in desk audits and its capacity for conducting them correctly and in a timely fashion? What are the elements of the anticipated classification plan to update needed classifications?**

Use of desk audits. Classification studies, often called desk audits, are requested when it is believed that an employee is working out of class. They can be requested by the employee, the employing department or the Department of Human Resources Management per Civil Service Rule 3.04(d). All employees are allowed to request a desk audit provided they have been performing the out-of-class work for one year. Employees fill out a Position Description Questionnaire Form to describe the work they are performing, which is then reviewed by staff. Classification studies are intended to be a protection and correction for employees whose positions evolve over time. If a reclassification is warranted, they are allowed to promote into the new classification without competing in a selection process.

Additionally, Civil Service Rule 3.02(d) allows for employees to perform higher class duties for training purposes. This may or may not occur without them receiving extra compensation. The Personnel Director is supposed to be informed of such situations, and they are not to exceed six months in duration.

It is important to distinguish between higher class duties and acting pay. There are several circumstances in which employees are allowed to perform higher class duties and receive acting pay. Most often, departments will have a temporary vacancy and ask employees to assume the duties of the higher level position in return for additional compensation. MOUs typically contain the applicable acting rate. The Department of Human Resources Management has a practice of not conducting classification studies/desk audits on employees who have been receiving acting pay because they are already being compensated for the additional duties.

Criteria for assigning out of class work Out of class work, when used for training purposes as mentioned in Civil Service Rule 3.02(d), is intended to allow employees to expand their skill sets. Usually, it allows employees to gain experience that will help them be competitive when there are vacancies for positions at higher levels in the organization. These assignments should not exceed six months in duration.

Departments may also have short-term vacancies and will temporarily compensate employees at higher levels in the performance of the assigned higher class duties, not to exceed six months in duration. AI 562 includes a form for Acting Higher Class Pay. Departments are supposed to use the form to inform the Personnel Director that an employee will be receiving acting pay. This policy had not been previously enforced or monitored, but now will be enforced.

Controls to monitor out of class assignments All department human resource liaisons (otherwise known as Single Point of Contact – SPOC) are reminded during SPOC meetings hosted throughout the year by the Department of Human Resources Management to monitor out of class work more carefully. Supervisors are reminded during performance appraisal training to ensure that their subordinates are performing at the appropriate level. New supervisor training sessions also remind supervisors that they are the first line of defense in preventing unnecessary and unwarranted out of class duties.

AI 562 gets guidelines on out of class assignments. This policy will be enforced from now on.

Department of Human Resources Management's role in desk audits and its capacity for conducting them correctly and in a timely fashion The Department receives all classification study requests and determines which ones meet the criteria. The assignments are given to Human Resources (HR) Analysts who interview the employees. HR Analysts perform the analysis, seek any other required information, work with their supervisor to issue the final findings to the incumbents, and defend any outcomes that are appealed to the Civil Service Board. These assignments were previously performed by a special Classification Unit that has since been dissolved. Now all HR Analysts are responsible for classification studies, and they are receiving on-going training to ensure that they are experts in the area of desk audits.

Highly skilled HR Analysts can complete a classification study within a two-to-three month timeframe. HR Analysts who are new to classification work and still being trained on how to perform desk audits usually take longer. Any shift in priorities will also result in delays in the processing time for desk audits.

Key elements of the anticipated classification plan to update needed classifications Staff is developing a plan to address maintenance of the classification plan. There are several key aspects: update existing class specifications; create missing class specifications; finalize all draft class specifications; expand the list of classifications that are eligible for flexible staffing; and review all current classifications to ensure they are still relevant or if any need to be collapsed or inactivated. HR Analysts would be assigned to complete the abovementioned work. The entire project is expected to require 12 to 18 months of continuous work in addition to the performance of all regular examination and classification duties.

4. How does the Department of Human Resources Management intend to document and create a policy or policies for the recruitment process for exempt positions to create more transparency, and ensure that incumbents meet minimum qualifications?

During the recent negotiations, the City and Local 21 agreed to add a provision that will assist in this area. The City is now required to post all exempt jobs for a minimum of seven (7) business days. Second, Administrative Instruction 562 will require departments to submit all documentation necessary to hire a person to the Department of Human Resources Management for review prior to appointment. Although not required, most departments consult with the Department of Human Resources Management. This allows the Department to advise the departments on appropriate recruiting and selection strategies. As a matter of good management we regularly advertise positions nationwide, especially for higher levels. Recent examples include the Deputy City Administrator, Controller, and Revenue and Tax Administrator.

SUSTAINABLE OPPORTUNITIES

Economic:

The Charter requirement provides economic opportunities for the City's relevant labor pool. Wherever possible, preference is given to hiring Oakland residents.

Environmental:

There are no environmental opportunities associated with this report.

Social Equity:

The Charter requirement provides social equity opportunities for the City's relevant labor pool. The State Constitution limits the City's ability to target specific groups. However, the Department of Human Resources Management will continue to expand its outreach efforts.

DISABILITY AND SENIOR CITIZEN ACCESS

There is no senior citizen access issues related to this report. Federal guidance requires affirmative action for veterans and disabled veterans.

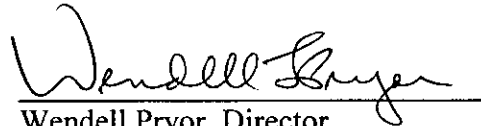
RECOMMENDATIONS AND RATIONALE

Staff recommends that the Council accept this Follow-up Report on the Hiring Practices Audit. The staff work to address the recommendations is ongoing. Staff plans to return to the Committee on March 23, 2010 to review the status of the efforts to address the recommendations that are contained in the report.

ACTION REQUESTED OF THE CITY COUNCIL

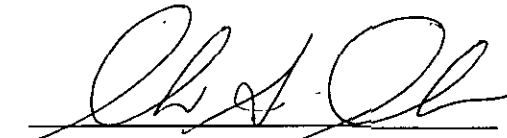
Staff requests that the Council accept this Follow-up Report concerning the Hiring Practices Audit, and accept staff recommendations.

Respectfully submitted,



Wendell Pryor, Director
Department of Human Resources Management

APPROVED AND FORWARDED TO THE
FINANCE AND MANAGEMENT COMMITTEE:



Office of the City Administrator